

ROY W. WAER, ROBERT A. GRIGGS

IBLA 77-176

Decided March 28, 1978

Appeal from decision of the Wyoming State Office, Bureau of Land Management, rejecting oil and gas lease offer W 58025.

Affirmed.

1. Oil and Gas Leases: Applications: Drawings—Oil and Gas Leases: Applications:  
Sole Party in Interest

The Department of the Interior may only issue an oil and gas lease to the first-qualified applicant, and a drawing entry card offer is properly rejected where it lists a second party in interest who fails to file timely the statement required by 43 CFR 3102.7.

APPEARANCES: Paul McEachem, Esq., Shaines, Madrigan & McEachem, Portsmouth, New Hampshire, for appellants.

OPINION BY ADMINISTRATIVE JUDGE GOSS

This is an appeal from the January 26, 1977, decision of the Wyoming State Office, Bureau of Land Management, rejecting oil and gas lease offer W 58025. Appellants' card was drawn first from simultaneously filed offers for the lease. The card bore Roy W. Waer's signature as applicant, and Robert A. Griggs was listed in the space provided for other parties in interest who must timely file a statement of interest as required by 43 CFR 3102.7. The offer was rejected because it was not accompanied by the required statement of interest. On appeal, it is contended that Griggs meant to sign the card as an applicant.

[1] Under the Mineral Leasing Act, the Department may issue an oil and gas lease only to the first qualified applicant. 30 U.S.C. § 226(c) (1970). A drawing entry card which indicates that there is another party in interest is not a qualified offer and must be rejected unless the statement required by 43 CFR 3102.7 is timely

filed. Mary West, 17 IBLA 84 (1974). Since Griggs signed in a different box as another party in interest, that signature did not constitute a certificate of qualifications to hold an oil and gas lease.

Because the preference right to the lease belongs to the next qualified drawee, a first-drawn but unqualified drawee cannot be allowed to correct his drawing entry card. 1/ Ballard E. Spencer Trust, Inc. v. Morton, 554 F.2d 1067 (10th Cir. 1976). The Department is precluded from allowing an offeror to correct his offer by the general principle that the Department is bound to follow its own regulations especially where third party rights are involved. McKay v. Wahlenmaier, 226 F.2d 35 (D.C. Cir. 1955). Thus, appellants' contention on appeal that Griggs meant to sign as an applicant provides no basis for reversing the decision of the State Office.

Appellants' contention that their error resulted from misleading language on the offer is without merit. The form provides an extra space for an additional party to sign as an applicant. As for those named as other parties in interest, the form clearly specifies the need to comply with 43 CFR 3102.7.

Therefore, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the decision appealed from is affirmed.

---

Joseph W. Goss  
Administrative Judge

We concur.

---

Edward W. Stuebing  
Administrative Judge

---

Frederick Fishman  
Administrative Judge

---

1/ If all three drawees are unqualified, the land applied for can only be leased after it is included in another list of lands available for simultaneous filing. 43 CFR 3112.5-1.

